



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Supplementary Report on Proposed Amendments and Review of Chapter 510, Holiday Shopping

**Date:** April 10, 2017

**To:** Licensing and Standards Committee

**From:** City Solicitor

**Wards:** All

#### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

#### **SUMMARY**

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This report provides further information to members of Council concerning the March 31, 2017 report from the Executive Director, Municipal Licensing and Standards and the General Manager, Economic Development.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council receive this report for information.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege and relates to litigation or potential litigation.

#### **FINANCIAL IMPACT**

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There is no financial impact resulting from the adoption of the recommendations in this report.

## DECISION HISTORY

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At its meeting of April 18, 2017, the Licensing and Standards Committee will consider a report from the Executive Director, Municipal Licensing and Standards and the General Manager, Economic Development.

At its meeting of September 30, 2015, City Council received a report from the City Solicitor and directed the Executive Director, Municipal Licensing and Standards to conduct a review of Chapter 510, Holiday Shopping, and report back to Licensing and Standards Committee on options available to address the concerns raised in the court ruling.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC9.5>

## COMMENTS

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This report provides further information to members of Council concerning the March 31, 2017 report from the Executive Director, Municipal Licensing and Standards and the General Manager, Economic Development.

The holiday shopping by-law was passed under the authority of the *City of Toronto Act, 2006* (the "COTA"). Once COTA was proclaimed, the *Retail Business Holidays Act* (the "RBHA") no longer applied to the City of Toronto. The RBHA is a provincial statute that requires retail businesses to be closed on statutory holidays unless they are exempted.

COTA limits the application of a holiday shopping by-law to retail establishments. It further provides that a holiday shopping by-law cannot apply to the sale or offering for sale by retail of "goods or services in the form of or in connection with prepared meals or living accommodation." (COTA, s. 97(3)).

Similarly, § 510-4I(1) exempts "premises selling goods or services in the form of or in connection with the following: (1) Prepared meals" from the requirement to close on a holiday.

In the City Solicitor's report dated September 15, 2015, the City Solicitor noted that it was unclear what degree of "selling goods and services in the form of or in connection with prepared meals" was required in order to meet the exemption contained in § 510-4I(1). In addition, when the term "prepared meals" was originally used it likely did not contemplate that multi-purpose grocery stores would contain an extensive inventory of prepared meals offered for sale alongside other more traditional grocery store inventory. Consequently, the September 15, 2015 report noted that it would be appropriate to undertake a review of the bylaw.

The recommendations in the report from the Executive Director, Municipal Licensing and Standards and the General Manager, Economic Development, seek to complete the review and conduct public consultations given the court decision and the evolution of the business practices that has occurred in these businesses. The City Solicitor supports this approach. This report provides further information in the Confidential Attachment to members of Council in light of the court decision that was the subject of the September 15, 2015 report.

## **CONTACT**

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Cory Lynch, Solicitor, Legal Services, 416-397-5331, [cory.lynch@toronto.ca](mailto:cory.lynch@toronto.ca)

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Chapter 510 Review